

ESTTA Tracking number: **ESTTA572604**

Filing date: **11/22/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Edwards Lifesciences Corporation
Granted to Date of previous extension	11/23/2013
Address	One Edwards Way Irvine, CA 92614 UNITED STATES
Attorney information	Carlo F. Van den Bosch Sheppard Mullin Richter & Hampton LLP 650 Town Center Drive, Fourth Floor Costa Mesa, CA 92626 UNITED STATES cvandenbosch@sheppardmullin.com, uspto-tm-oc@sheppardmullin.com, GPour-Moezzi@sheppardmullin.com Phone:714-424-8215

Applicant Information

Application No	85914299	Publication date	09/24/2013
Opposition Filing Date	11/22/2013	Opposition Period Ends	11/23/2013
Applicant	Vertera, Inc. 520 Woodbridge Hollow Court Atlanta, GA 30306 GABON		

Goods/Services Affected by Opposition

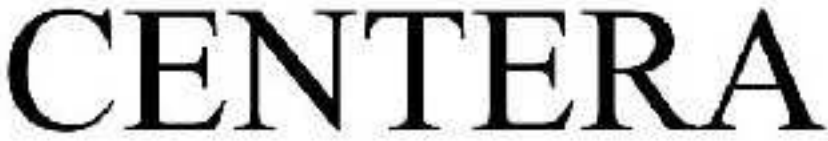
Class 010. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Surgical devices and instruments

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4396585	Application Date	01/26/2011
Registration Date	09/03/2013	Foreign Priority Date	NONE
Word Mark	CENTERA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 2012/12/28 First Use In Commerce: 2012/12/28 Medical devices, namely, heart valves and heart valve delivery catheters

Attachments	85226574#TMSN.jpeg(bytes) 11-21-13 - Notice of Opposition re VERTERA mark with signed Certificate of Service.pdf(229121 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/cfv/
Name	Carlo F. Van den Bosch
Date	11/22/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Edwards Lifesciences Corporation,
a Delaware Corporation,

Opposer,

v.

Vertera, Inc.
a Georgia Corporation,

Applicant.

OPPOSITION NO.: _____

NOTICE OF OPPOSITION

In re Application of Vertera, Inc.:

Serial No.: 85/914,299
Filed: April 25, 2013
Trademark: **VERTERA**
Filing Basis: 1(b)
Published: September 24, 2013

Edwards Lifesciences Corporation, a Delaware corporation (“Edwards Lifesciences” or “Opposer”), having a mailing address of One Edwards Way, Irvine, California, 92614, believes that it may be damaged by registration of the mark **VERTERA** in connection with “surgical devices and instruments” in International Class 10. Therefore, Edwards Lifesciences opposes the application of Vertera, Inc. (“Applicant”), for the mark **VERTERA** in accordance with the provisions of Section 13 of the Trademark Act. (15 U.S.C. § 1063).

Applicant’s mark is described as follows:

Mark: **VERTERA**
Serial No.: 85/914,299

Filed: April 25, 2013
International Class: 10
Goods: “Surgical devices and instruments.”

The grounds for opposition are as follows:

1. Opposer owns the mark **CENTERA**[®] and corresponding federal registration No. 4,396,585 in connection with medical devices in International Class 10 (the “Mark”).
2. Opposer is presently using and has continuously used the **CENTERA**[®] Mark since at least as early as December 28, 2012 in connection with medical devices, namely, heart valves and catheters used in cardiac surgery in International Class 10. The Mark enjoys an earlier constructive priority date of January 26, 2011.
3. Opposer uses the Mark on its medical devices, on product packaging, on invoices, via its Internet Website, in advertising and promotional materials, in conjunction with its services, and in other ways customary in the trade.
4. Opposer has used the Mark in channels of trade and geographic markets that have afforded Opposer notoriety and success.
5. Upon information and belief, Applicant did not use the mark **VERTERA** prior to Opposer’s first commercial use of the Mark.
6. Opposer uses the Mark to market its goods and services to consumers, and engages in extensive advertising and promotional efforts. By virtue of its efforts, and the expenditure of considerable sums for promotional activities, as well as the excellence of the quality of its goods and services, Opposer has gained a valuable reputation and goodwill through use of the Mark.

7. Opposer believes that it will be damaged by the registration of Applicant's proposed mark and opposes Applicant's application for the following reasons:

a. Applicant's proposed mark, **VERTERA**, is very similar to Opposer's Mark, and is used on related goods as well as goods within Opposer's natural zone of expansion. Both are used on medical device products used during surgical procedures. Such similarity is likely to cause confusion, to cause mistake, and to deceive the public, injuring Opposer and the consuming public. Confusion is particularly important to avoid in connection with medical devices, such as Opposer's and Applicant's goods, because it could result in the use of improper equipment, the loss of time, or other mistakes that could negatively impact patient care. For that reason, greater care should be taken to avoid confusion in this case.

b. Applicant may intend to gain notoriety and financial success by confusing the public by using Opposer's similar mark that has afforded Opposer a reputation of excellence.

8. THEREFORE, Opposer prays that Applicant's proposed trademark for **VERTERA** be denied registration.

DATED: November 22, 2013

Respectfully submitted,

By /cfv/

CARLO F. VAN DEN BOSCH
GAZAL J. POUR-MOEZZI

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Attorneys for Opposer
EDWARDS LIFESCIENCES CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on Vertera, Inc. by mailing said copy on November 22, 2013 via First Class Mail postage prepaid to:

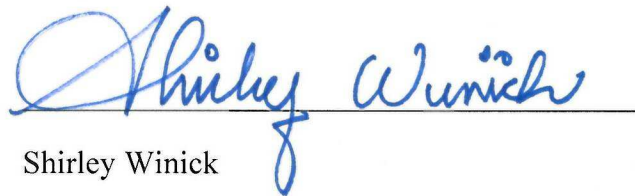
Wm. Alex Furman, Esq.

Furman IP Law

P.O. Box 1575

Boulder, Colorado 80306-1575

Dated: November 22, 2013


Shirley Winick